

Patent

Attorney Docket No. 64118.000192

Customer No. 21967

**THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:)

TEITELBAUM *et al.*)

Serial No.: 10/534,055)

Filed: May 6, 2005)

Title: TRANSPEDICULAR INTERVERTEBRAL)
DISK ACCESS METHODS AND DEVICES)

Group Art Unit: Unassigned

Examiner: Unassigned

Confirmation No. 2702

RECEIVED

18 APR 2007

Legal Staff
International Division**MAIL STOP PETITION**

Commissioner for Patent and Trademark Office

P.O. Box 1450

Alexandria, VA 22313-1450

PETITION TO REVIVE UNINTENTIONAL ABANDONMENT

Under the authority of 37 C.F.R. §1.137(b), Applicants respectfully petition the U.S. Patent and Trademark Office (PTO) to revive improper abandonment of the above-captioned application due to PTO's error.

Applicants timely responded to the Decision on Petition Under 37 C.F.R. §1.47(a) received by Hunton and Williams LLC, on May 10, 2006 (no mailing date was on correspondence) by filing a Renewed Petition Under 37 C.F.R. §1.47(a) on June 6, 2006, via electronic filing. Copies of the complete filing, including the Acknowledgement of Receipt, are enclosed for your convenience.

Applicants believe that no additional fees are due for filing this petition. In the event any additional fees are required, the Commissioner is authorized to charge all required fees, under 37

Attorney Docket No. 64118.000192
Application Serial No. 10/534,055
Customer No. 21967

C.F.R. §1.17, or all required extension of time fees, to the undersigned's deposit account No. 50-0206.

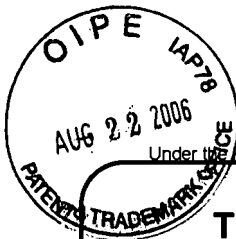
Respectfully submitted,
HUNTON & WILLIAMS

By: _____


Robert A. King
Registration No. 42,738

Hunton & Williams LLP
1900 K Street, N.W., Suite 1200
Washington, D.C. 20006-1109
Telephone (202) 955-1950
Facsimile (202) 778-2201

Dated: August 18, 2006



PTO/SB/21 (07-06)

Approved for use through 09/30/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

46

Application Number

10/534,055

Filing Date

May 6, 2005

First Named Inventor

TEITELBAUM, et al

Art Unit

Unassigned

Examiner Name

Unassigned

Attorney Docket Number

64118.000192

ENCLOSURES

(Check all that apply)



Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Reply to Missing Parts/
Incomplete ApplicationReply to Missing Parts
under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



Petition

Petition to Convert to a
Provisional Application

Power of Attorney, Revocation



Change of Correspondence Address



Terminal Disclaimer



Request for Refund



CD, Number of CD(s) _____

☐ Landscape Table on CD

Remarks



After Allowance Communication to TC

Appeal Communication to Board
of Appeals and InterferencesAppeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please identify
below):Petition to Revive Unintentional Abandonment
(2 pages)

Attachments to Petition (43 Pages)

Postcard

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Hunton & Williams LLC

Signature

Printed name

Robert A. King

Date

August 18, 2006

Reg. No.

42,738

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature

Typed or printed name

Adrienne D. Jackson

Date

August 18, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

NAME OF SOLE OR FIRST INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) **George P.** Family Name or Surname **TEITELBAUM**
Citizenship: **US**
Residence: **Santa Monica, CA**
Mailing Address: **325 16th Street, Santa Monica, CA 90402-2217**

NAME OF SECOND INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) **Samuel M.** Family Name or Surname **SHAOLIAN**
Citizenship: **US**
Residence: **Newport Beach, CA**
Mailing Address: **2315 Arbutus Street, Newport Beach, CA 92660**

NAME OF THIRD INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) **Thanh Van** Family Name or Surname **NGUYEN**
Citizenship: **US**
Residence: **Irvine, CA**
Mailing Address: **4752 Roxbury Drive, Irvine, CA 92604**

NAME OF FOURTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

✓ Signature _____ Date _____ ✓
Given Name (first and middle (if any)) **Frank** Family Name or Surname **NGUYEN**
Citizenship: **US**
Residence: **Superior, CO**
Mailing Address: **1995 E. Coalton Road, #77-203, Superior, CO 80027**

NAME OF FIFTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) **To V.** Family Name or Surname **PHAM**
Citizenship: **US**
Residence: **Trubuco Canyon, CA**
Mailing Address: **28422 Pueblo Drive, Trubuco Canyon, CA 92679**

NAME OF SIXTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) **Vincent** Family Name or Surname **DIVINO, Jr.**
Citizenship: **US**
Residence: **Mission Viejo, CA**
Mailing Address: **24436 Muela, Mission Viejo, CA 92692**

NAME OF SEVENTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) **Michael R.** Family Name or Surname **HENSON**
Citizenship: **US**
Residence: **Coto de Casa, CA**
Mailing Address: **2 Via Presea, Coto de Casa, CA 92679**

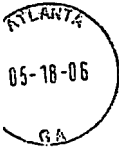
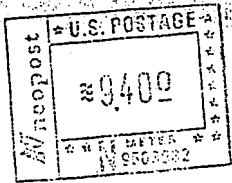
ATTACHMENT 2

Best Available Copy

CERTIFIED MAIL



7006 3260 0003 1620 3595



HUNTON & WILLIAMS
HUNTON & WILLIAMS LLP • BANK OF AMERICA PLAZA • SUITE 4100
600 PEACHTREE STREET, N.E. • ATLANTA • GEORGIA • 30308-2216
64718.192

Mr. Frank Nguyen
1900 E. Coalton Road, #77
Superior, CO 80027



**NOT DELIVERABLE
AS ADDRESSED,
UNABLE TO FORWARD**

IAS

RS

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Frank Nguyen
1995E. Coalton Road, #77
Superior, CO 80027

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

C. Signature

X

☐ Agent

☐ Addressee

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☒ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number (Copy from service label)

7005 1161 0001 1620 3595 75

PS Form 3811, July 1999

Domestic Mail Only

102595-00-M-0952

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As the below named inventor, I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name;

I believe that I am the original, first and sole inventor (if only one name is listed below) or, an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES

the specification of which: ☐ is attached hereto.

☒ was filed on: May 6, 2005

as United States Application No.: 10/534,055

or PCT International Application No.: _____

and was amended on: _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

Prior Foreign Application(s)

I hereby claim foreign priority benefits under 35 U.S.C. §§ 119(a)-(d) or (f), or § 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below by checking the box, any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
PCT/US03/09285	PCT	25, March, 2003		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

Prior Provisional Application(s)

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing (day, month, year)
60/424,942	8, November, 2002

Prior United States Application(s)

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Number	Date of Filing (day, month, year)	Status - Patented, Pending, Abandoned

And I hereby appoint, both jointly and severally, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the Hunton & Williams LLP attorneys and agents associated with:

**CUSTOMER NUMBER
21967**

All correspondence and telephone communications should be addressed to:

**CUSTOMER NUMBER
21967**

corresponding to the law firm of Hunton & Williams LLP; Intellectual Property Department; 1900 K Street, N.W.; Suite 1200; Washington, DC 20006-1109; telephone number (202) 955-1500; facsimile number (202) 778-2201.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

NAME OF SOLE OR FIRST INVENTOR: ☐ A petition has been filed for this unsigned inventor

Signature *George P. Teitelbaum* Date 10/17/05
Given Name (first and middle (if any)) George P. Family Name or Surname TEITELBAUM
Citizenship: US
Residence: Santa Monica, CA
Mailing Address: 325 16th Street, Santa Monica, CA 90402-2217

NAME OF SECOND INVENTOR: ☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) Samuel M. Family Name or Surname SHAOLIAN
Citizenship: US
Residence: Newport Beach, CA
Mailing Address: 2315 Arbutus Street, Newport Beach, CA 92660

NAME OF THIRD INVENTOR: ☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) Thanh Van Family Name or Surname NGUYEN
Citizenship: US
Residence: Irvine, CA
Mailing Address: 4752 Roxbury Drive, Irvine, CA 92604

NAME OF FIFTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____

Given Name
(first and middle (if any)) **To V.**

Family Name
or Surname **PHAM**

Citizenship: **US**

Residence: **Trabuco Canyon, CA**

Mailing Address: **28422 Pueblo Drive, Trabuco Canyon, CA 92679**

NAME OF SIXTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____

Given Name
(first and middle (if any)) **Vincent**

Family Name
or Surname **DIVINO, Jr.**

Citizenship: **US**

Residence: **Mission Viejo, CA**

Mailing Address: **24436 Muela, Mission Viejo, CA 92692**

NAME OF SEVENTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____

Given Name
(first and middle (if any)) **Michael R.**

Family Name
or Surname **HENSON**

Citizenship: **US**

Residence: **Coto de Casa, CA**

Mailing Address: **2 Via Presea, Coto de Casa, CA 92679**

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

As the below named inventor, I hereby declare that:

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the specification of which: ☐ is attached hereto.

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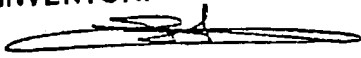
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☐ A petition has been filed for this unsigned inventor

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Citizenship: US
Residence: Newport Beach, CA
Mailing Address: 2315 Arbutus Street, Newport Beach, CA 92660

NAME OF THIRD INVENTOR:

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Signature  Date 10-19-05
Given Name (first and middle (if any)) Thanh Van Family Name or Surname NGUYEN
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Residence: Irvine, CA
Mailing Address: 4752 Roxbury Drive, Irvine, CA 92604

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☐ A petition has been filed for this unsigned inventor

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Citizenship: US
Residence: Superior, CO
Mailing Address: 1995 E. Coalton Road, #77-203, Superior, CO 80027

NAME OF FIFTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) To V. Family Name or Surname PHAM
Citizenship: US
Residence: Trabuco Canyon, CA
Mailing Address: 28422 Pueblo Drive, Trabuco Canyon, CA 92679

NAME OF SIXTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) Vincent Family Name or Surname DIVINO, Jr.
Citizenship: US
Residence: Mission Viejo, CA
Mailing Address: 24436 Muela, Mission Viejo, CA 92692

NAME OF SEVENTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) Michael R. Family Name or Surname HENSON
Citizenship: US
Residence: Coto de Casa, CA
Mailing Address: 2 Via Presea, Coto de Casa, CA 92679

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Citizenship: US
Residence: Santa Monica, CA
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NAME OF SECOND INVENTOR:

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Citizenship: US
Residence: Newport Beach, CA
Mailing Address: 2315 Arbutus Street, Newport Beach, CA 92660

NAME OF THIRD INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) Thanh Van Family Name or Surname NGUYEN
Citizenship: US
Residence: Irvine, CA
Mailing Address: 4752 Roxbury Drive, Irvine, CA 92604

NAME OF FOURTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) Frank Family Name or Surname NGUYEN
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Residence: Superior, CO
Mailing Address: 1995 E. Coalton Road, #77-203, Superior, CO 80027

NAME OF FIFTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature

Date 10-18-05

Given Name
(first and middle (if any)) To V.

Family Name
or Surname PHAM

Citizenship: US

Residence: Trabuco Canyon, CA

Mailing Address: 28422 Pueblo Drive, Trabuco Canyon, CA 92679

NAME OF SIXTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature

Date

Given Name
(first and middle (if any)) Vincent

Family Name
or Surname DIVINO, Jr.

Citizenship: US

Residence: Mission Viejo, CA

Mailing Address: 24436 Muela, Mission Viejo, CA 92692

NAME OF SEVENTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature

Date

Given Name
(first and middle (if any)) Michael R.

Family Name
or Surname HENSON

Citizenship: US

Residence: Coto de Casa, CA

Mailing Address: 2 Via Presea, Coto de Casa, CA 92679

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

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My residence, post office address and citizenship is as stated below next to my name;

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and was amended on: _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

Prior Foreign Application(s)

I hereby claim foreign priority benefits under 35 U.S.C. §§ 119(a)-(d) or (f), or § 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or § 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below by checking the box, any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed	
PCT/US03/09285	PCT	25, March, 2003		Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
				Yes <input type="checkbox"/>	No <input type="checkbox"/>

Application Number	Country	Date of Filing (day, month, year)	Date of Issue (day, month, year)	Priority Claimed
				Yes <input type="checkbox"/> No <input type="checkbox"/>

Prior Provisional Application(s)

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

Application Number	Date of Filing (day, month, year)
60/424,942	8, November, 2002

Prior United States Application(s)

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in 37 C.F.R. § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Number	Date of Filing (day, month, year)	Status - Patented, Pending, Abandoned

And I hereby appoint, both jointly and severally, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the Hunton & Williams LLP attorneys and agents associated with:

**CUSTOMER NUMBER
21967**

All correspondence and telephone communications should be addressed to:

**CUSTOMER NUMBER
21967**

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

NAME OF SOLE OR FIRST INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) George F. Family Name or Surname TEITELBAUM
Citizenship: US
Residence: Santa Monica, CA
Mailing Address: 325 16th Street, Santa Monica, CA 90402-2217

NAME OF SECOND INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) Samuel M. Family Name or Surname SHAOLIAN
Citizenship: US
Residence: Newport Beach, CA
Mailing Address: 2315 Arbutus Street, Newport Beach, CA 92660

NAME OF THIRD INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) Thanh Van Family Name or Surname NGUYEN
Citizenship: US
Residence: Irvine, CA
Mailing Address: 4752 Roxbury Drive, Irvine, CA 92604

NAME OF FOURTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) Frank Family Name or Surname NGUYEN
Citizenship: US
Residence: Superior, CO
Mailing Address: 1995 E. Coalton Road, #77-203, Superior, CO 80027

NAME OF FIFTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) To V. Family Name or Surname PHAM
Citizenship: US
Residence: Trubuco Canyon, CA
Mailing Address: 28422 Pueblo Drive, Trubuco Canyon, CA 92679

NAME OF SIXTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature *Vincent Divino, Jr.* Date 10/18/05
Given Name (first and middle (if any)) Vincent Family Name or Surname DIVINO, Jr.
Citizenship: US
Residence: Mission Viejo, CA
Mailing Address: 24436 Muela, Mission Viejo, CA 92692

NAME OF SEVENTH INVENTOR:

☐ A petition has been filed for this unsigned inventor

Signature _____ Date _____
Given Name (first and middle (if any)) Michael R. Family Name or Surname HENSON
Citizenship: US
Residence: Coto de Casa, CA
Mailing Address: 2 Via Presea, Coto de Casa, CA 92679



01 AUG 2006

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Intellectual Property Department
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Washington, DC 20006-1109

64118.192

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8-9-06

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In re Application of
TEITELBAUM *et al*
U.S. Application No.: 10/534,055
PCT No.: PCT/US03/09285
Int. Filing Date: 25 March 2003
Priority Date: None
Docket No.: 64118.000192
For: TRANSPEDICULAR
INTERVERTEBRAL DISK ACCESS
METHODS AND DEVICES

DECISION ON
RENEWED PETITION
UNDER 37 CFR 1.47(a)

This is a decision on applicants' "Renewed Petition under 37 CFR §1.47(a)" filed 06 June 2006.

BACKGROUND

On 09 May 2006, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. There was conflicting information regarding whether the nonsigning inventor could be located. Moreover, the declaration provided was not in compliance with 37 CFR 1.497. Applicants were given two months to respond.

On 06 June 2006, applicants submitted via facsimile a renewed petition which was accompanied by, *inter alia*, a declaration of Robert A. King ("Decl."); a copy of a letter dated 18 May 2006 with copies of the postal receipts; and a declaration signed by six of the seven named inventors.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the required petition fee; (2) factual proof that the missing joint inventor refuses to execute the application or cannot be found or reached after diligent effort; (3) a statement of the last known address of the missing joint inventor; (4) and an oath or declaration executed by the signing joint inventor on his behalf and on behalf of the nonsigning joint inventor. Petitioners satisfied item (1) with the initial petition and items (3) and (4) with the renewed petition.

Petitioners declare that the last known address of Mr. Frank Nguyen is:

1995 E. Coalton Road
Superior, CO 80027

Regarding item (4), the 37 CFR 1.47(a) applicant submitted complete declarations signed by six of the seven joint inventors on behalf of the nonsigning inventor. All of the inventor's names, residences, post office addresses and citizenship are typed on the declaration. This declaration satisfies the requirements of 37 CFR 1.497(a) and (b) and section 409.03(a) of the MPEP.

However, petitioners have not yet satisfied item (2) of 37 CFR 1.47(a).

Petitioners submitted evidence filed in an earlier U.S. application (No. 10/999,216) showing that a diligent effort was made to locate Mr. Nguyen. This search was conducted by Sabrina Chambers prior to 15 August 2005.¹

In the renewed petition, the 37 CFR 1.47(a) applicants submitted a declaration of Robert A. King who states that the certified mail postcard signed as received by Mr. Nguyen on 01 November 2005 clearly established that Superior, Colorado, was his last known mailing address. Decl. at ¶ 4. Petitioners mailed a certified letter on 18 May 2006 to this address along with a copy of the application and a declaration requesting that Mr. Nguyen respond. The letter was returned as undeliverable. Petitioners submitted no other evidence on this matter.

First, the showing that a diligent effort was made to locate Mr. Nguyen submitted in U.S. application No. 10/999,216 on 16 August 2005 is no longer relevant as there is credible evidence to suggest that Mr. Nguyen was living in Louisville, Colorado on 01 November 2005. Since the letter sent to the last known address of Mr. Nguyen on 18 May 2006 was returned as undeliverable, it is not clear whether Mr. Nguyen is aware of the subject application. Petitioners must attempt to determine where Mr. Nguyen now resides. *

If petitioners conclude that Mr. Nguyen still lives at the Louisville, Colorado address but refuses to accept delivery of mail, **this conduct would constitute a refusal to cooperate**. If petitioners are unable to determine where Mr. Nguyen lives, a **statement of facts should be submitted that fully describes the steps taken to locate the whereabouts of the nonsigning inventor**. Copies of documentary evidence such as internet and telephone searches that support a finding that the nonsigning inventor could not be found or reached should be made part of the

¹ The declaration of Ms. Chambers filed with the petition in U.S. Application 10/999,216 was dated 15 August 2005.

statement of facts. See MPEP § 409.03(d).

For the reasons noted above, item (2) of 37 CFR 1.47(a) is not yet satisfied.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. No additional petition fee is required.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

PAD-TMM-RAK



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U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/534,055	George P Teitelbaum	64118.000192

INTERNATIONAL APPLICATION NO.
PCT/US03/09285

I.A. FILING DATE	PRIORITY DATE
03/25/2003	

21967
 HUNTON & WILLIAMS LLP
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 WASHINGTON, DC 20006-1109

64118-192
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Hunton & Williams LLP

CONFIRMATION NO. 2702

371
 ABANDONMENT/TERMINATION
 LETTER

OC000000019920751

Date Mailed: 08/07/2006

7047

NOTIFICATION OF ABANDONMENT

DOCKETED

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- Failure to respond to Petition sent 5/9/01

ABANDON???

Therefore, the above identified application fail 1.495, and is ABANDONED AS TO THE UNIT

d 37 CFR

Telephone: (703) 308-9140 EXT 204

PART 1 - ATTORNEY/APPLICANT COPY

FORM PCT/DO/EO/909 (371 Abandonment Notice)



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10/534,055

Transpedicular intervertebral disk access n devices

Select New Case	Application Data	Transaction History	Continuity Data	Address & Attorney/Agent	Ass
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Transaction History

Date	Transaction Description
08-05-2006	Abandonment -- Inc. Application under Rule 53(b) - f
08-01-2006	Petition Decision - Dismissed
06-06-2006	Petition Entered
05-10-2006	Petition Decision - Dismissed
11-23-2005	Petition Entered
07-25-2005	Notice of DO/EO Missing Requirements Mailed
05-06-2005	Initial Exam Team nn

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